

**REISSUE APPLICATION DECLARATION AND POWER OF ATTORNEY
(BY INVENTOR(S) OR ASSIGNEE)**

(complete A or B)

A. ☒ DECLARATION BY THE INVENTOR(S)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name, I believe I am the original, first and sole inventor (*if only one name is listed below*) or an original, first and joint inventor (*if plural names are listed below*) of the subject matter that is described and claimed in letters patent number 5,906,407, granted on May 25, 1999, and for which invention I solicit a reissue patent on the invention entitled TONNEAU COVER TENSION ADJUSTER APPARATUS

the specification of which

☒ is attached hereto.

☐ was filed on _____, as reissue application number / and was amended on _____ (*if applicable*).

☒ I hereby declare that there is no assignee for this application.

NOTE: "Where no assignee exists, applicant should affirmatively state that fact. If the file record is silent as to the existence of an assignee, it will be presumed that no assignee exists." M.P.E.P., 6th ed., rev. 1, § 1410.01.

B. ☐ DECLARATION BY ASSIGNEE

NOTE: The assignee of the entire interest may make the declaration, if the reissue application does not seek to enlarge the scope of the claims of the original patent. 37 C.F.R. § 1.172.

(type or print name of declarant)

Title

of _____,

Name of company or legal entity on whose behalf declarant is authorized to sign

declare that I am a citizen of _____ and resident of _____,

_____, that the entire title to letters patent number _____,

for _____,

granted on _____, 19____ to _____

Inventor(s)

is vested in _____

Name of company or legal entity

that I believe said named inventor(s) to be an original, first and sole inventor (*if only one name is listed*) or an original, first and part inventor (*if plural names are listed*) of the subject matter that is described and claimed in the aforesaid letters patent and in the foregoing specification and for which invention I solicit a reissue patent.

09866138-05501

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

(37 C.F.R. § 1.175)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information that is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

- ☒ In compliance with this duty, there is attached an information disclosure statement in accordance with 37 C.F.R. § 1.98.

PRIORITY CLAIM

NOTE: A "claim" for the benefit of an earlier filing date in a foreign country under 35 U.S.C. 119(a)-(d) must be made in a reissue application even though such a claim was made in the application on which the original was granted. However, no additional certified copy of the foreign application is necessary. M.P.E.P., 6th ed., rev. 1, § 1417.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

(complete C or D)

- C. ☒ No such applications have been filed.
D. ☐ Such applications have been filed as follows:

EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION

| Country | Application No. | Date of filing (day, month, year) | Date of issue (day, month, year) | Priority Claimed |
|---------|-----------------|--------------------------------------|-------------------------------------|--|
| | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |

ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION

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BENEFIT OF PROVISIONAL APPLICATION

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**STATEMENT OF INOPERATIVENESS
OR INVALIDITY OF ORIGINAL PATENT**
(37 C.F.R. § 1.175)

That I believe the original patent to be

☒ partly

☐ wholly

inoperative or invalid by reason of (37 C.F.R. § 1.175(a)(1)):

(check all items that may apply)

☒ a defective specification

☒ a defective drawing

☒ the patentee claiming more or less than the patentee had a right to claim in the patent.

NOTE: At least one error must be relied upon as the basis for the reissue. 37 C.F.R. § 1.175(a)(1).

That the error listed above, which are being corrected, up to the time of the filing of this reissue declaration arose without any deceptive intention on the part of the applicant. (37 C.F.R. § 1.175(a)(2).

NOTE: For any error corrected not covered by this declaration applicant must submit, before allowance, a supplemental declaration stating that every such error arose without any deceptive intention on the part of the applicant. 37 C.F.R. § 1.175(b)(1).

☒ Corroborating affidavits or declarations of others accompany this declaration.

POWER OF ATTORNEY

I hereby appoint the following practitioner(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

(list name and registration number)

(check the following item, if applicable)

- ☒ I hereby appoint the practitioner(s) associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.
- ☐ Attached, as part of this declaration and power of attorney, is the authorization of the above-named practitioner(s) to accept and follow instructions from my representative(s).

SEND CORRESPONDENCE TO

- ☒ Address
Robert C. Freed
Moore & Hansen
90 South 7th Street
Suite 2900
Minneapolis, Minnesota 55402
- ☒ Customer Number 22854

DIRECT TELEPHONE CALLS TO:
(Name and telephone number)

Robert C. Freed
(612) 332-8200

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature(s)

☒ BY THE INVENTOR(S)

Full name of sole or first inventor Charles M. Schmeichel
Inventor's signature Charles Schmeichel
Date May 21, 2001 Country of Citizenship U.S.A.
Residence 8381 - 32 R Street SE, Unit 3, Jamestown, ND 58401
Post Office Address P. O. Box 1395, Jamestown, ND 58402

Full name of second joint inventor, if any _____
Inventor's signature _____
Date _____ Country of Citizenship _____
Residence _____
Post Office Address _____

☐ BY ASSIGNEE OR PERSON AUTHORIZED TO SIGN ON BEHALF OF ASSIGNEE

NOTE: Even though inventor(s) do not sign, complete above information for inventor(s).

(complete the following, if applicable)

(type name of assignee)

Address of assignee

Title of person authorized to sign on behalf of assignee

☐ Assignment recorded in PTO on _____

Reel _____

Frame _____

☐ A separate ☐ "ASSIGNMENT (DOCUMENT) COVER SHEET"
or ☐ FORM PTO 1595 is submitted herewith along with the assign-
ment _____

STATEMENT BY ASSIGNEE

- ☐ Attached is a "STATEMENT UNDER 37 C.F.R. 3.73(b)," establishing the right of the assignee to take action in this reissue.

Signature of assignee or person authorized to
sign on behalf of assignee

(check proper box(es) for any added page(s) forming a part of this declaration)

- ☐ Signature for third and subsequent joint inventors. Number of pages added. _____
- ☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor. Number of pages added. _____
- ☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 C.F.R. § 1.47. Number of pages added. _____
- ☐ Statement of inoperativeness or invalidity of original patent. 37 C.F.R. § 1.175. Number of pages added _____
- ☐ Authorization of attorney(s) to accept and follow instructions from representative.
- ☐ Corroborating statements of others.

PATENT

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY
STATUS(37 CFR 1.9(f) AND 1.27 (b)) - INDEPENDENT INVENTOR**

As a below named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 CFR §1.9(c) for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark office with regard to the invention entitled:

TONNEAU COVER TENSION ADJUSTER APPARATUS

described in:

- (x) the specification filed herewith.
- () application Serial No. _____, filed _____.
- () Patent No. _____, issued _____.

I have not assigned, granted, conveyed or licensed and am under no obligation under contract or law to assign, grant, convey, or license, any rights in the invention to any person who could not be classified as an independent inventor under 37 CFR § 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR § 1.9(d) or any non-profit organization under 37 CFR §1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

- (x) no such person, concern, or organization
- () persons, concern, or organization listed below

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring their status as small entities (37 CFR §1.9(3)).

Name: **Charles M. Schmeichel**

Date: May 21, 2001


Charles M. Schmeichel

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|-------------|------------------------|---|---------------------------|
| Applicant: | Schmeichel, Charles M. |) | Docket No.: A20-012-01-US |
| | |) | |
| Serial No.: | N/A |) | |
| | |) | |
| Filed: | Herewith |) | |
| | |) | |
| For: | TONNEAU COVER TENSION |) | |
| | ADJUSTER APPARATUS |) | |

Assistant Commissioner for Patents
Washington, D. C. 20231

DECLARATION

Dear Sir/Madam:

Charles M. Schmeichel declares that he is the inventor of the invention described in the above-identified Application; he believes the Application was filed with drawings which did not adequately show all aspects of the invention; he believes the Specification describing the preferred embodiments of the invention did not provide an adequate description of the invention; and that the claims initially filed with the Application and subsequently issuing as a part of U.S. Patent No. 5,906,407 were so narrowly drawn as to inadequately define and protect his invention; that new claims are necessary to adequately claim the full scope of his invention and to provide him the full scope of patent protection allowed under U.S. Patent Laws; that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18, United States Code, and that such willful false

statements may jeopardize the validity of the application or any registration resulting therefrom.

All communications shall be addressed to:

Robert C. Freed
Moore & Hansen
Suite 2900
90 South Seventh Street
Minneapolis, MN 55402
Tel: 612-332-8200
Fax 612 332-1780

Respectfully submitted,

Date: 05-21-01

By Charles M. Schmeichel
Charles M. Schmeichel

P:\Client Files\Bob Freed\Agricover\012-01-US\010518 Declaration.doc

Practitioner's Docket No. _____

PATENT

**REISSUE APPLICATION BY THE INVENTOR, OFFER TO SURRENDER
(37 C.F.R. § 1.178)**

To the Assistant Commissioner for Patents:

1. The undersigned applicant of the accompanying reissue application for the reissue of letters patent for the improvement in TONNEAU COVER TENSION ADJUSTER APPARATUS Patent number 5,906,407 granted to him/her on May 25, 1999, of which

☒ he/she is now sole owner,

☐ _____

is now sole owner by assignment, and on whose behalf and with whose assent the accompanying application is made,

☐ The "ASSENT BY THE ASSIGNEE" to this reissue application is attached.

Date: May 21, 2001

Charles Schmeichel
Signature(s)

Charles M. Schmeichel

(type or print name(s))

CERTIFICATION UNDER 37 C.F.R. § 1.10*

(Express Mail label number is mandatory.)

(Express Mail certification is optional.)

I hereby certify that this correspondence and the documents referred to as attached therein are being deposited with the United States Postal Service on this date May 25, 2001, in an envelope as "Express Mail Post Office to Addressee," service under 37 C.F.R. § 1.10, Mailing Label Number EL 850929912 US, addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

Susan J. Anderson

(type or print name of person mailing paper)

Susan J. Anderson

Signature of person mailing paper

WARNING: Certificate of mailing (first class) or facsimile transmission procedures of 37 C.F.R. § 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

***WARNING:** Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. § 1.10(b).

"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will **not** be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

(Reissue Application by the Inventor, Offer to Surrender (37 C.F.R. § 1.178)—Assent of Assignee

[17-2]—page 1 of 2)

0966133.0501

ASSENT OF ASSIGNEE TO REISSUE

The undersigned, assignee of the entire interest in the above-mentioned letters patent, hereby assents to the accompanying application.

STATEMENT BY ASSIGNEE

- ☐ Attached is a "STATEMENT UNDER 37 C.F.R. 3.73(b)," establishing the right of the assignee to take action in this reissue.

Date: _____

Signature of assignee;
*(type or print name of signatory and title if signing
on behalf of an entity)*